

Docket No.: 4497-002

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Marco CARDINALE

Confirmation No. 2045

U.S. Patent Application No. 10/522,020

Group Art Unit: 3764

Filed: January 21, 2005

Examiner: Allana LEWIN

For: EXERCISE APPATUS

REQUEST FOR REFUND

Mail Stop 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On May 14, 2008, Applicants representative discussed amendments which Examiner Lewin indicated would be entered via Examiner's amendment. However, on Friday May 30, there was no sign of the notice of allowance being issued. Numerous attempts to contact Examiner Lewin and her Supervisor, Loan H. Thanh, were made and messages were left. However, no timely response was received. Thus, in the absence of any indication that the case had been allowed within the 6 month period, Applicant filed a Notice of Appeal with a three-month extension of time on May 28, 2008 to ensure that the application did not inadvertently go abandoned.

Supervisory Examiner Loan H. Thanh left a voice mail on Saturday morning (May 31st) informing Applicant's representative that a Notice of Allowance had been issued on Friday, May 30th 2008. Therefore, Applicant courteously requests that the Notice of Appeal filed on May 28, 2008 be withdrawn and a refund in the amount of \$780.00 be credited to Deposit Account No. 07-1337.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

A handwritten signature in black ink, appearing to read "Kenneth M. Berner".

Kenneth M. Berner
Registration No. 37,093

1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
Date: June 4, 2008
KMB/KJT/ser